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**SUBSTITUTE SENATE BILL 5353**

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**State of Washington**                      **64th Legislature**                      **2015 Regular Session**

**By** Senate Commerce & Labor (originally sponsored by Senator Angel)

READ FIRST TIME 02/20/15.

1            AN ACT Relating to marketing opportunities for spirits produced  
2 in Washington by craft and general licensed distilleries; amending  
3 RCW 66.24.140, 66.24.145, 66.24.175, and 66.20.010; adding a new  
4 section to chapter 66.20 RCW; and adding a new section to chapter  
5 66.24 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7            **Sec. 1.** RCW 66.24.140 and 2014 c 92 s 4 are each amended to read  
8 as follows:

9            (1) There (~~shall be~~) is a license to distillers, including  
10 blending, rectifying, and bottling; fee two thousand dollars per  
11 annum, unless provided otherwise as follows:

12            (a) For distillers producing one hundred fifty thousand gallons  
13 or less of spirits with at least half of the raw materials used in  
14 the production grown in Washington, the license fee must be reduced  
15 to one hundred dollars per annum;

16            (b) The board must license stills used and to be used solely and  
17 only by a commercial chemist for laboratory purposes, and not for the  
18 manufacture of liquor for sale, at a fee of twenty dollars per annum;

19            (c) The board must license stills used and to be used solely and  
20 only for laboratory purposes in any school, college, or educational  
21 institution in the state, without fee; and

1 (d) The board must license stills that have been duly licensed as  
2 fruit and/or wine distilleries by the federal government, used and to  
3 be used solely as fruit and/or wine distilleries in the production of  
4 fruit brandy and wine spirits, at a fee of two hundred dollars per  
5 annum.

6 (2) Any distillery licensed under this section may:

7 (a) Sell spirits of its own production for consumption off the  
8 premises. A distillery selling spirits under this subsection must  
9 comply with the applicable laws and rules relating to retailers;

10 (b) Contract distilled spirits for, and sell contract distilled  
11 spirits to, holders of distillers' or manufacturers' licenses,  
12 including licenses issued under RCW 66.24.520, or for export; and

13 (c) Provide free or for a charge one-half ounce or less samples  
14 of spirits of its own production to persons on the premises of the  
15 distillery. The maximum total per person per day is two ounces. Every  
16 person who participates in any manner in the service of samples must  
17 obtain a class 12 alcohol server permit. Spirits samples may be  
18 adulterated with water and/or ice.

19 **Sec. 2.** RCW 66.24.145 and 2014 c 92 s 1 are each amended to read  
20 as follows:

21 (1)(a) Any craft distillery may sell spirits of its own  
22 production for consumption off the premises.

23 (b) A craft distillery selling spirits under this subsection must  
24 comply with the applicable laws and rules relating to retailers.

25 (2) Any craft distillery may contract distilled spirits for, and  
26 sell contract distilled spirits to, holders of distillers' or  
27 manufacturers' licenses, including licenses issued under RCW  
28 66.24.520, or for export.

29 (3) Any craft distillery licensed under this section may provide,  
30 free or for a charge, one-half ounce or less samples of spirits of  
31 its own production to persons on the premises of the distillery. The  
32 maximum total per person per day is two ounces. Every person who  
33 participates in any manner in the service of samples must obtain a  
34 class 12 alcohol server permit. Spirits samples may be adulterated  
35 with water and/or ice.

36 (4)(a) A distillery or craft distillery licensee may apply to the  
37 board for an endorsement to sell spirits of its own production at  
38 retail for off-premises consumption at a qualifying farmers market.  
39 The annual fee for this endorsement is seventy-five dollars.

1 (b) For each month during which a distillery or craft distillery  
2 will sell spirits at a qualifying farmers market, the distillery or  
3 craft distillery must provide the board or its designee a list of the  
4 dates, times, and locations at which bottled spirits may be offered  
5 for sale. This list must be received by the board before the spirits  
6 may be offered for sale at a qualifying farmers market.

7 (c) Each approved location in a qualifying farmers market is  
8 deemed to be part of the distillery or craft distillery license for  
9 the purpose of this title. The approved locations under an  
10 endorsement granted under this subsection include tasting or sampling  
11 privileges subject to the conditions pursuant to RCW 66.24.175. The  
12 distillery or craft distillery may not store spirits at a farmers  
13 market beyond the hours that the bottled spirits are offered for  
14 sale. The distillery or craft distillery may not act as a distributor  
15 from a farmers market location.

16 (d) Before a distillery or craft distillery may sell bottled  
17 spirits at a qualifying farmers market, the farmers market must apply  
18 to the board for authorization for any distillery or craft distillery  
19 with an endorsement approved under this subsection to sell bottled  
20 spirits at retail at the farmers market. This application must  
21 include, at a minimum: (i) A map of the farmers market showing all  
22 booths, stalls, or other designated locations at which an approved  
23 distillery or craft distillery may sell bottled spirits; and (ii) the  
24 name and contact information for the on-site market managers who may  
25 be contacted by the board or its designee to verify the locations at  
26 which bottled spirits may be sold. Before authorizing a qualifying  
27 farmers market to allow an approved distillery or craft distillery to  
28 sell bottled spirits at retail at its farmers market location, the  
29 board must notify the persons or entities of such application for  
30 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization  
31 granted under this subsection (4)(d) may be withdrawn by the board  
32 for any violation of this title or any rules adopted under this  
33 title.

34 (e) For the purposes of this subsection (4), "qualifying farmers  
35 market" has the same meaning as defined in RCW 66.24.170.

36 (5) The board must adopt rules to implement the alcohol server  
37 permit requirement and may adopt additional rules to implement this  
38 section.

39 ((+5)) (6) Distilling is an agricultural practice.

1       **Sec. 3.** RCW 66.24.175 and 2014 c 105 s 2 are each amended to  
2 read as follows:

3       (1) A qualifying farmers market authorized to allow wineries to  
4 sell bottled wine at retail under RCW 66.24.170 ~~((or))~~,  
5 microbreweries to sell bottled beer at retail under RCW 66.24.244,  
6 ~~((or both,))~~ distilleries to sell bottled spirits at retail under RCW  
7 66.24.140, or craft distilleries to sell bottled spirits at retail  
8 under RCW 66.24.145 may apply to the liquor control board for an  
9 endorsement to allow sampling of wine ~~((or))~~, beer, ~~((both))~~  
10 spirits. A winery ~~((or))~~, microbrewery, distillery, or craft  
11 distillery offering samples under this section must have an  
12 endorsement from the board to sell wine ~~((or))~~, beer, or spirits, as  
13 the case may be, of its own production at a qualifying farmers market  
14 under RCW 66.24.170 ~~((or))~~, 66.24.244, 66.24.140, or 66.24.145,  
15 respectively.

16       (2) Samples may be offered only under the following conditions:

17       (a) No more than three wineries ~~((or))~~, microbreweries,  
18 distilleries, or craft distilleries combined may offer samples at a  
19 qualifying farmers market per day.

20       (b) Samples of wine or beer must be two ounces or less. A winery  
21 or microbrewery may provide a maximum of two ounces of wine or beer  
22 to a customer per day. A distillery or craft distillery may provide  
23 one-half ounce or less samples of spirits, with a maximum total per  
24 person per day of two ounces and such samples may be adulterated with  
25 water and/or ice.

26       (c) A winery ~~((or))~~, microbrewery, distillery, or craft  
27 distillery may advertise that it offers samples only at its  
28 designated booth, stall, or other designated location at the farmers  
29 market.

30       (d) Customers must remain at the designated booth, stall, or  
31 other designated location while sampling beer ~~((or))~~, wine, or  
32 spirits.

33       (e) Winery ~~((and))~~, microbrewery, distillery, or craft distillery  
34 licensees and employees who are involved in sampling activities under  
35 this section must hold a class 12 or class 13 alcohol server permit.

36       (f) A winery or microbrewery must have food available for  
37 customers to consume while sampling beer or wine, or must be adjacent  
38 to a vendor offering prepared food.

39       (3) The board may establish additional requirements to ensure  
40 that persons under twenty-one years of age and apparently intoxicated

1 persons may not possess or consume alcohol under the authority  
2 granted in this section.

3 (4) The board may prohibit sampling at a farmers market that is  
4 within the boundaries of an alcohol impact area recognized by  
5 resolution of the board if the board finds that the sampling  
6 activities at the farmers market have an adverse effect on the  
7 reduction of chronic public inebriation in the area.

8 (5) If a winery (~~(œ)~~), microbrewery, distillery, or craft  
9 distillery is found to have committed a public safety violation in  
10 conjunction with tasting activities, the board may suspend the  
11 licensee's farmers market endorsement and not reissue the endorsement  
12 for up to two years from the date of the violation. If mitigating  
13 circumstances exist, the board may offer a monetary penalty in lieu  
14 of suspension during a settlement conference.

15 (6) For the purposes of this section, a "qualifying farmers  
16 market" has the same meaning as defined in RCW 66.24.170.

17 **Sec. 4.** RCW 66.20.010 and 2013 c 59 s 1 are each amended to read  
18 as follows:

19 Upon application in the prescribed form being made to any  
20 employee authorized by the board to issue permits, accompanied by  
21 payment of the prescribed fee, and upon the employee being satisfied  
22 that the applicant should be granted a permit under this title, the  
23 employee must issue to the applicant under such regulations and at  
24 such fee as may be prescribed by the board a permit of the class  
25 applied for, as follows:

26 (1) Where the application is for a special permit by a physician  
27 or dentist, or by any person in charge of an institution regularly  
28 conducted as a hospital or sanatorium for the care of persons in ill  
29 health, or as a home devoted exclusively to the care of aged people,  
30 a special liquor purchase permit, except that the governor may waive  
31 the requirement for a special liquor purchase permit under this  
32 subsection pursuant to an order issued under RCW 43.06.220(2);

33 (2) Where the application is for a special permit by a person  
34 engaged within the state in mechanical or manufacturing business or  
35 in scientific pursuits requiring alcohol for use therein, or by any  
36 private individual, a special permit to purchase alcohol for the  
37 purpose named in the permit, except that the governor may waive the  
38 requirement for a special liquor purchase permit under this  
39 subsection pursuant to an order issued under RCW 43.06.220(2);

1 (3) Where the application is for a special permit to consume  
2 liquor at a banquet, at a specified date and place, a special permit  
3 to purchase liquor for consumption at such banquet, to such  
4 applicants as may be fixed by the board;

5 (4) Where the application is for a special permit to consume  
6 liquor on the premises of a business not licensed under this title, a  
7 special permit to purchase liquor for consumption thereon for such  
8 periods of time and to such applicants as may be fixed by the board;

9 (5) Where the application is for a special permit by a  
10 manufacturer to import or purchase within the state alcohol, malt,  
11 and other materials containing alcohol to be used in the manufacture  
12 of liquor, or other products, a special permit;

13 (6) Where the application is for a special permit by a person  
14 operating a drug store to purchase liquor at retail prices only, to  
15 be thereafter sold by such person on the prescription of a physician,  
16 a special liquor purchase permit, except that the governor may waive  
17 the requirement for a special liquor purchase permit under this  
18 subsection pursuant to an order issued under RCW 43.06.220(2);

19 (7) Where the application is for a special permit by an  
20 authorized representative of a military installation operated by or  
21 for any of the armed forces within the geographical boundaries of the  
22 state of Washington, a special permit to purchase liquor for use on  
23 such military installation;

24 (8) Where the application is for a special permit by a vendor  
25 that manufactures or sells a product which cannot be effectively  
26 presented to potential buyers without serving it with liquor or by a  
27 manufacturer, importer, or distributor, or representative thereof, to  
28 serve liquor without charge to delegates and guests at a convention  
29 of a trade association composed of licensees of the board, when the  
30 said liquor is served in a hospitality room or from a booth in a  
31 board-approved suppliers' display room at the convention, and when  
32 the liquor so served is for consumption in the said hospitality room  
33 or display room during the convention, anything in this title to the  
34 contrary notwithstanding. Any such spirituous liquor must be  
35 purchased from a spirits retailer or distributor, and any such liquor  
36 is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

37 (9) Where the application is for a special permit by a  
38 manufacturer, importer, or distributor, or representative thereof, to  
39 donate liquor for a reception, breakfast, luncheon, or dinner for  
40 delegates and guests at a convention of a trade association composed

1 of licensees of the board, when the liquor so donated is for  
2 consumption at the said reception, breakfast, luncheon, or dinner  
3 during the convention, anything in this title to the contrary  
4 notwithstanding. Any such spirituous liquor must be purchased from a  
5 spirits retailer or distributor, and any such liquor is subject to  
6 the taxes imposed by RCW 66.24.290 and 66.24.210;

7 (10) Where the application is for a special permit by a  
8 manufacturer, importer, or distributor, or representative thereof, to  
9 donate and/or serve liquor without charge to delegates and guests at  
10 an international trade fair, show, or exposition held under the  
11 auspices of a federal, state, or local governmental entity or  
12 organized and promoted by a nonprofit organization, anything in this  
13 title to the contrary notwithstanding. Any such spirituous liquor  
14 must be purchased from a liquor spirits retailer or distributor, and  
15 any such liquor is subject to the taxes imposed by RCW 66.24.290 and  
16 66.24.210;

17 (11) Where the application is for an annual special permit by a  
18 person operating a bed and breakfast lodging facility to donate or  
19 serve wine or beer without charge to overnight guests of the facility  
20 if the wine or beer is for consumption on the premises of the  
21 facility. "Bed and breakfast lodging facility," as used in this  
22 subsection, means a facility offering from one to eight lodging units  
23 and breakfast to travelers and guests;

24 (12) Where the application is for a special permit to allow  
25 tasting of alcohol by persons at least eighteen years of age under  
26 the following circumstances:

27 (a) The application is from a community or technical college as  
28 defined in RCW 28B.50.030;

29 (b) The person who is permitted to taste under this subsection is  
30 enrolled as a student in a required or elective class that is part of  
31 a culinary, wine technology, beer technology, or spirituous  
32 technology-related degree program;

33 (c) The alcohol served to any person in the degree-related  
34 programs under (b) of this subsection is tasted but not consumed for  
35 the purposes of educational training as part of the class curriculum  
36 with the approval of the educational provider;

37 (d) The service and tasting of alcoholic beverages is supervised  
38 by a faculty or staff member of the educational provider who is  
39 twenty-one years of age or older. The supervising faculty or staff

1 member shall possess a class 12 or 13 alcohol server permit under the  
2 provisions of RCW 66.20.310;

3 (e) The enrolled student permitted to taste the alcoholic  
4 beverages does not purchase the alcoholic beverages; and

5 (f) The permit fee for the special permit provided for in this  
6 subsection (12) (~~shall~~) must be waived by the board;

7 (13) Where the application is for a special permit by a  
8 distillery or craft distillery for an event not open to the general  
9 public to be held or conducted at a specific place, including at the  
10 licensed premise of the applying distillery or craft distillery, upon  
11 a specific date for the purpose of tasting and selling spirits of its  
12 own production. The distillery or craft distillery must obtain a  
13 permit for a fee of ten dollars per event. An application for the  
14 permit must be submitted via the board's online web portal for  
15 private banquet permits prior to the event and, once issued, must be  
16 posted in a conspicuous place at the premises for which the permit  
17 was issued during all times the permit is in use.

18 NEW SECTION. Sec. 5. A new section is added to chapter 66.20  
19 RCW to read as follows:

20 (1) The holder of a license to operate a distillery or craft  
21 distillery issued under RCW 66.24.140 or 66.24.145 may accept orders  
22 for spirits from, and deliver spirits to, customers if all of the  
23 following conditions are met for each sale:

24 (a) Spirits are not used for resale;

25 (b) Spirits come directly from the distillery's or craft  
26 distillery's possession prior to shipment or delivery. All  
27 transactions are to be treated as if they were conducted in the  
28 retail location of the distillery or craft distillery regardless of  
29 how they are received or processed;

30 (c) Spirits may be ordered in person at a licensed location, by  
31 mail, telephone, or internet, or by other similar methods; and

32 (d) Only a distillery or craft distillery licensee or a  
33 licensee's direct employees may accept and process orders and  
34 payments. A contractor may not do so on behalf of a distillery or  
35 craft distillery licensee, except for transmittal of payment through  
36 a third-party service. A third-party service may not solicit customer  
37 business on behalf of a distillery or craft distillery licensee.

1 (2) All orders and payments must be fully processed before  
2 spirits transfers ownership or, in the case of delivery, leaves a  
3 licensed distillery's or craft distillery's possession.

4 (3) Payment methods include, but are not limited to: Cash, credit  
5 or debit card, check or money order, electronic funds transfer, or an  
6 existing prepaid account. An existing prepaid account may not have a  
7 negative balance.

8 (4) To sell spirits via the internet, a new distillery or craft  
9 distillery license applicant must request internet-sales privileges  
10 in his or her application. An existing distillery or craft distillery  
11 licensee must notify the board prior to beginning internet sales. A  
12 corporate entity representing multiple licensees may notify the board  
13 in a single letter on behalf of affiliated distillery or craft  
14 distillery licensees, as long as the liquor license numbers of all  
15 licensee locations utilizing internet sales privileges are clearly  
16 identified.

17 (5) Delivery may be made only to a residence or business that has  
18 an address recognized by the United States postal service; however,  
19 the board may grant an exception to this rule at its discretion. A  
20 residence includes a hotel room, a motel room, marina, or other  
21 similar lodging that temporarily serves as a residence.

22 (6) Spirits may be delivered each day of the week between the  
23 hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by  
24 2:00 a.m.

25 (7) Under chapter 66.44 RCW, any person under twenty-one years of  
26 age is prohibited from purchasing, delivering, or accepting delivery  
27 of liquor.

28 (a) A delivery person must verify the age of the person accepting  
29 delivery before handing over liquor.

30 (b) If no person twenty-one years of age or older is present to  
31 accept a liquor order at the time of delivery, the liquor must be  
32 returned.

33 (8) Intoxication. Delivery of liquor is prohibited to any person  
34 who shows signs of intoxication.

35 (9)(a) Individual units of spirits must be factory sealed in  
36 bottles. For the purposes of this subsection, "factory sealed" means  
37 that a unit is in one hundred percent resalable condition, with all  
38 manufacturer's seals intact.

39 (b) The outermost surface of a liquor package, delivered by a  
40 third party, must have language stating that:

1 (i) The package contains liquor;  
2 (ii) The recipient must be twenty-one years of age or older; and  
3 (iii) Delivery to intoxicated persons is prohibited.  
4 (10) Required information.  
5 (a) Records and files must be retained at the licensed premises.  
6 Each delivery sales record must include the following:  
7 (i) Name of the purchaser;  
8 (ii) Name of the person who accepts delivery;  
9 (iii) Street addresses of the purchaser and the delivery  
10 location; and  
11 (iv) Time and date of purchase and delivery.  
12 (b) A private carrier must obtain the signature of the person who  
13 receives liquor upon delivery.  
14 (c) A sales record does not have to include the name of the  
15 delivery person, but it is encouraged.  
16 (11) Web site requirements. When selling over the internet, all  
17 web site pages associated with the sale of liquor must display the  
18 distillery or craft distillery licensee's registered trade name.  
19 (12) Accountability. A distillery or craft distillery licensee is  
20 accountable for all deliveries of liquor made on its behalf.  
21 (13) Violations. The board may impose administrative enforcement  
22 action upon a licensee, or suspend or revoke a licensee's delivery  
23 privileges, or any combination thereof, should a licensee violate any  
24 condition, requirement, or restriction.

25 NEW SECTION. **Sec. 6.** A new section is added to chapter 66.24  
26 RCW to read as follows:

27 (1) Any licensee authorized to sell at retail under this chapter  
28 may sell gift certificates and gift cards intended to be exchanged  
29 for consumer goods, including alcohol, produced and sold by the  
30 licensee. The licensee may also sell the gift certificates and gift  
31 cards to or through a third-party retailer for resale to the public.  
32 Gift certificates and gift cards may not be redeemed for alcohol by  
33 persons under the age of twenty-one.

34 (2) For the purposes of this section, "gift certificate" and  
35 "gift cards" have the same meaning as provided in RCW 19.240.010.

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